



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 18, 1992

Mr. Dan Eden  
Acting Executive Director  
Texas Water Commission  
P. O. Box 13087  
Austin, Texas 78711-3087

OR92-64

Dear Mr. Eden:

Your predecessor in office asked whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. The request was assigned I.D. #14237.

The Texas Water Commission (the "commission") received a request for information submitted to the commission by Wal-Mart Properties, Inc. The commission contends that the information is within the scope of subsection (c) of section 361.182 of the Health and Safety Code, which provides in part as follows:

Information or documents requested under Subsection (b) or this subsection are public records, except that the commission shall consider the copied records as confidential if a showing satisfactory to the commission is made by the owner of the records that the records would divulge trade secrets if made public.

We have been informed that Wal-Mart requested that the records in question be kept confidential. Under section 361.182, the records may be kept confidential only if the commission makes a finding that release of the records would divulge trade secrets. *See generally Hyde Corp. v. Huffines*, 314 S.W.2d 763, 776 (Tex.), *cert. denied*, 358 U.S. 898 (1958) (regarding trade secrets).

You ask whether the commission may withhold the records under section 3(a)(13) of the Open Records Act, which excepts the following information from required public disclosure:

geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency or an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code.

Information expressly made public by a statute outside of the Open Records Act cannot be withheld under exceptions to the requirements of the Open Records Act. Open Records Decision No. 43 (1974). Thus, unless the commission makes a finding that release of the documents in question would reveal trade secrets, you must release the documents to the public.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-64.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/GK/lcd

Ref.: ID# 14237

cc: Mr. Andrew N. Barret  
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